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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
N.D. CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHANG BLISS,

Plaintiff,

vs.

I.C. SYSTEM, INC.,

Defendant.

Case No. C V 10 - 4975 HRL

) COMPLAINT FOR VIOLATION
OF FEDERAL FAIR DEBT
COLLECTION PRACTICES ACT
AND ROSENTHAL FAIR DEBT
COLLECTION PRACTICES ACT
)
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)
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I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d).

III. PARTIES

3. Plaintiff, Chang Bliss (“Plaintiff”), is a natural person residing in Santa Clara county in the state of California, and is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a “debtor” as defined by Cal Civ Code §1788.2(h).

4. At all relevant times herein, Defendant, I.C. System, Inc. (“Defendant”) was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer debt,” as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c).

IV. FACTUAL ALLEGATIONS

5. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

6. On or about May, 2010, Plaintiff began receiving calls from Defendant regarding an alleged debt owed to Sprint.

1 7. Plaintiff has repeatedly advised Defendant that she disputes the
2 alleged debt. Plaintiff does not believe she owes a debt for a Sprint account.
3 Defendant has never advised Plaintiff that she had the right to dispute the debt in
4 writing or that she had the right to request verification of the alleged debt.
5

6 8. On or about June 30, 2010, at 2:10 p.m., Plaintiff told Defendant not
7 to call her on Tuesdays, Thursdays, or Saturdays, as she receives dialysis on those
8 days. The dialysis is necessary for Plaintiff's health.
9

10 9. Defendant ignored Plaintiff's request to stop calling during her
11 dialysis on at least one occasion. Specifically, on or about Thursday, July 1,
12 2010, at 9:31 a.m., Defendant again called Plaintiff, while she was receiving her
13 dialysis.
14

15 10. Further, Defendant called Plaintiff on at least one Sunday.
16 Specifically, on or about Sunday, July 11, 2010, Defendant called Plaintiff at 3:09
17 p.m.
18

19 11. Plaintiff hired counsel as a direct result of Defendant's repeated calls
20 during her dialysis treatment, calls on Sunday, and failure to cease collecting on a
21 debt she does not owe.
22

23 12. Plaintiff's counsel sent two letters to Defendant in attempt to resolve
24 Plaintiff's dispute with Defendant. Defendant has yet to respond to either letter.
25

1 13. Defendant's conduct violated the FDCPA and the RFDCPA in
2 multiple ways, including but not limited to:

- 3 a) Communicating with Plaintiff at times or places which were known
4 or should have been known to be inconvenient for Plaintiff,
5 including, but not limited to, on days Plaintiff specifically asked
6 Defendant not to because she was in dialysis and on Sundays
7 (§1692c(a)(1));
8 b) Causing Plaintiff's telephone to ring repeatedly or continuously with
9 intent to harass, annoy or abuse Plaintiff, including, but not limited
10 to, on days Plaintiff specifically asked Defendant not to because she
11 was in dialysis and on Sundays (§1692d(5));
12 c) Falsely representing the character, amount, or legal status of
13 Plaintiff's debt, including, but not limited to, attempting to collect on
14 a Sprint account that Plaintiff does not owe (§1692e(2)(A));
15 d) Using unfair or unconscionable means against Plaintiff in connection
16 with an attempt to collect a debt, including, but not limited to, on
17 days Plaintiff specifically asked Defendant not to because she was in
18 dialysis and on Sundays (§1692f);
19 e) Causing a telephone to ring repeatedly or continuously to annoy
20 Plaintiff, including, but not limited to, on days Plaintiff specifically
21 asked Defendant not to because she was in dialysis and on Sundays
22 (Cal Civ Code §1788.11(d)); and
23 f) Communicating, by telephone or in person, with Plaintiff with such
24 frequency as to be unreasonable and to constitute an harassment to
25 Plaintiff under the circumstances, including, but not limited to, on
26 days Plaintiff specifically asked Defendant not to because she was in
27 dialysis and on Sundays (Cal Civ Code §1788.11(e)).

28 14. As a result of the above violations of the FDCPA and RFDCPA
29 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal
30 humiliation, embarrassment, mental anguish and emotional distress, and
31 Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages,
32 and costs and attorney's fees.

1 **COUNT I: VIOLATION OF FAIR DEBT**
2 **COLLECTION PRACTICES ACT**

3 15. Plaintiff reincorporates by reference all of the preceding paragraphs.
4
5

6 **PRAYER FOR RELIEF**
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9 WHEREFORE, Plaintiff respectfully prays that judgment be entered
10 against the Defendant for the following:
11
12

- 13 A. Declaratory judgment that Defendant's conduct
14 violated the FDCPA;
15 B. Actual damages;
16 C. Statutory damages;
17 D. Costs and reasonable attorney's fees; and,
18 E. For such other and further relief as may be just and proper.
19
20

21 **COUNT II: VIOLATION OF ROSENTHAL**
22 **FAIR DEBT COLLECTION PRACTICES ACT**

23 16. Plaintiff reincorporates by reference all of the preceding paragraphs.
24
25

26 17. To the extent that Defendant's actions, counted above, violated the
27 RFDCPA, those actions were done knowingly and willfully
28

29 **PRAYER FOR RELIEF**
30
31

32 WHEREFORE, Plaintiff respectfully prays that judgment be entered
33 against the Defendant for the following:
34
35

- 36 A. Declaratory judgment that Defendant's conduct
37 violated the RFDCPA;
38 B. Actual damages;

- 1 C. Statutory damages for willful and negligent violations;
2 D. Costs and reasonable attorney's fees,
3 E. For such other and further relief as may be just and proper.

5
6 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

7 Respectfully submitted this 1st day of November, 2010.

8 By: _____
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